

TPW



REISSUE LITIGATION

Reissue Application No. 10/734,073
Attorney Docket No. 01-9665-06.4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Patent Application of)
Inventor: Raymond DEGNER et al.)
Patent No. 4,074,456)
Reissue Appln. No. 10/734,073)
Title: COMPOSITE ELECTRODE FOR)
PLASMA PROCESSES)
Art Unit 1744)
Examiner: Unknown)
Reissue Appln. Filed Dec. 12, 2004)
Published in the *Official Gazette* Mar. 9, 2004)

DEADLINE
MAY 9, 2004

To the Assistant Commissioner of Patents and Trademarks:

**PETITION OF XYCARB CERAMICS, INC.
FOR EXTENSION OF TIME TO ENSURE
AT LEAST TWO MONTHS AFTER THE PUBLICATION DATE
FOR FILING A PROTEST UNDER 37 C.F.R. 1.291**

OR IN THE ALTERNATIVE

**A PETITION FOR AN EXTENSION OF TIME FOR A PERIOD
OF ONE MONTH FROM MAY 9, 2004, TO JUNE 9, 2004, IN THE EVENT THAT
THE TWO-MONTH PROTEST PERIOD HAS BEEN WAIVED**

1. The undersigned are attorneys for Xycarb Ceramics, Inc. a Texas Corporation presently in litigation with the reissue applicant in LAM RESEARCH CORPORATION vs. SCHUNK SEMICONDUCTOR ET AL. in the Federal District Court Northern District of California, Case No. 3:03-cv-01335, filed March 27, 2003, for infringement of U.S. Patent

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4,074,456.

2. The foregoing litigation is not under a stay.
3. The undersigned attorneys only learned of the filing of the reissue application on or about March 26, 2004 by a fortuitous call from unrelated counsel. We immediately requested our Washington associate to obtain a copy of the reissue application. Owing to the current move of the U.S. Patent and Trademark Office, obtaining the file was delayed until April 13, 2004, leaving less than one month from the two-month delay before examination under *MPEP 1901.04*.
4. The reissue application identifies only two claims, 18 and 33, which are invalid and seeks to amend these two claims. Additional time is required to obtain, study, and ascertain what is pertinent to the reissue application.
5. The reissue application was accompanied by an Information Disclosure Statement identifying 37 prior art references.
6. The undersigned has gathered at least 10 references, which, alone or in combination, are believed to not only raise an issue as to patentability of claims 18 and 33 but are believed to invalidate all or virtually all of the claims of U.S. Patent 4,074,456.

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7. The undersigned is concurrently in the process of preparing a request for reexamination and a protest of this patent in reissue.
8. Both the request for reexamination and the protest will address all 36 of the Degner '456 patent claims which are believed to be clearly invalid over prior art found by the undersigned, including some of which has been known by the reissue applicant for approximately a year.
9. The undersigned has received no notice of the filing of the reissue from assignee or inventors of the '456 patent for which reissue is sought despite the ongoing litigation.

PRAYER

In order to file a protest, which is believed to determine the scope and validity of the entire Degner et al. patent 4,074,456, it is respectfully requested that the two-month period to protest not be waived in accordance with *Manual of Patent Examining Procedure*, Chapter 1900, Section 1901.04, or any other provision.

ALTERNATIVE

In the alternative, it is requested that a one-month extension from May 9, 2004 to June 9, 2004, be granted to file a protest.

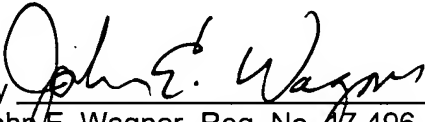
Enclosed is a check in the amount of \$130 for the Petition fee. Charge any additional petition fee and any further fees in connection with this matter to Deposit Account 23-0083. A second copy of this petition is enclosed.

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, Respectfully submitted,

XYCARB CERAMICS, INC.

By 
John E. Wagner, Reg. No. 07,496
LAW OFFICES OF JOHN E. WAGNER
35411 Ocean View Boulevard
Glendale, CA 91208
(818) 957-3340

Enclosures: 2 Copies of Petition Document
Return Postal
Check \$130
Certificate of Service

APPROVED:

I

☐ The full two-month period to protest to May 9, 2004, is hereby confirmed.

APPROVED:

II

☐ A one-month extension to file a protest is hereby granted to June 9, 2004.



PROOF OF SERVICE

I, the undersigned, certify that I am a patent agent associated with the LAW OFFICES OF JOHN E. WAGNER; that I am over eighteen years of age and not a party to the within action; and that my business address is KM ASSOCIATES, 2001 Jefferson Davis Highway, Suite 312, Arlington, VA 22202.

I served the following document(s):

**PETITION OF XYCARB CERAMICS, INC. FOR EXTENSION
OF TIME TO ENSURE AT LEAST TWO MONTHS AFTER
THE PUBLICATION DATE FOR FILING A PROTEST
UNDER 37 C.F.R. 1.291**

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OF ONE MONTH FROM MAY 9, 2004 TO JUNE 9, 2004,
IN THE EVENT THAT THE TWO-MONTH PROTEST
PERIOD HAS BEEN WAIVED**

on the parties stated below, through their attorneys of record, by placing a true copy thereof in a sealed envelope addressed as shown below by the following means of service:

 X : By First Class Mail – I am readily familiar with the firm's practice for collection and processing of correspondence for mailing. Under that practice, the correspondence is deposited with the United States Postal Service on the same day as collected, with first-class postage thereon fully prepaid, in Alexandria, Virginia, for mailing to the office of the addressee following ordinary business practices.

Addressee(s)

Peter K. Skiff
Burns, Doane, Swecker & Mathis, L.L.P.
P.O. Box 1404
Alexandria, VA 22315-1404

I declare under penalty of perjury that the foregoing is true and correct. Executed on

_____, at _____.

Dennis Kreps